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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,974	03/12/2004	Joseph Kwak	I-2-0501.2US	9039
24374 7590 01/21/2009 VOLPE AND KOENIG, P.C. DEPT. ICC UNITED PLAZA, SUITE 1600 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103				
EXAMINER				
DUONG, DUC T				
ART UNIT		PAPER NUMBER		
2419				
MAIL DATE		DELIVERY MODE		
01/21/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/799,974

Applicant(s)

KWAK ET AL.

Examiner

Duc T. Duong

Art Unit

2419

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 36-57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 40, 41, 43-46, 51, 52 and 54-57 is/are rejected.
- 7) ☒ Claim(s) 36-39, 42, 47-50 and 53 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group I in the reply filed on 9/19/08 is acknowledged.

Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 36, 37, 39, 42, 47, 48, 50, and 53 are rejected under 35 U.S.C. 102(e) as being anticipated by Gray (US Patent 6,675,012 B2)

Regarding to claims 36 and 47, Gray discloses a wireless transmit/receive unit WTRU 12 configured to determine a received channel power indicator RCPI in a wireless network (fig. 1 col. 5 lines 51-53), the WTRU comprising an antenna 32 configured to receive a wireless signal including a physical layer convergence protocol PLCP preamble 26 (fig. 1-2 col. 6 line 58-col. 7 line 9) and a processor 38 configured to measure a received radio frequency power in a selected channel for an antenna over a physical layer convergence protocol PLCP preamble (fig. 1 col. 7 lines 20-30), and

determine an N bit (fig. 2 col. 8 lines 14-51) received channel power indicator (RCPI) parameter from the measured received radio frequency power (col. 7 lines 31-41).

Regarding to claims 37 and 48, Gray discloses the measured received radio frequency power is measured by a PHY sublayer (col. 7 lines 47-52).

Regarding to claims 39 and 50, Gray discloses the PHY sublayer is an orthogonal frequency division multiplex (OFDM) PHY sublayer (col. 9 lines 1-2).

Regarding to claims 42 and 53, Gray discloses a value of the N bit RCPI parameter is an 8 bit RCPI parameter (fig. 2 col. 8 lines 14-51).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 38 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gray in view of Goodall et al (US Patent 6,940,843 B2).

Regarding to claims 38 and 49, Gray discloses all the limitations with respect to claims 36 and 47, except for the PHY sublayer is a direct sequence spread spectrum (DSSS) PHY sublayer. However, Goodall discloses an apparatus and method for measuring received signal quality using direct sequence spread spectrum DSSS (fig. 4 col. 16 lines 40-58). Thus, it would have been obvious to a person of ordinary skill in the art, at the time of the invention, to employ such PHY sublayer as taught by Goodall

into Gray's system to provide wireless stations and access points with alternative mode of communications.

Allowable Subject Matter

6. Claims 40, 41, 43-46, 51, 52, and 54-57 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc T. Duong whose telephone number is (571)272-3122. The examiner can normally be reached on M-F (8:00 AM-5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing Chan can be reached on 571-272-7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. T. D./
Examiner, Art Unit 2419

/Wing F. Chan/
Supervisory Patent Examiner, Art Unit 2419
1/15/09